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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,002	02/12/2002	Klaus Wildenhain	3633-511	2442

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/072,002

Applicant(s)
KLAUS WILDENHAIN ET AL.

Examiner
YVONNE M. HORTON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 3, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-18, and 20-32 is/are rejected.
- 7) ☒ Claim(s) 7 and 19 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Apr 25, 2002 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Drawings

OK

1. The drawings are objected to because the specification details that the safety element (42) is in the form of a screw; however, the drawing figures appear to depict the safety element (42) as a plate member. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

OK

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there is no support in the specification of the spacing frame of claim 13.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 20-32 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims detail that the safety/retaining element allows the additional pane to be disposed in first proximal position and a supported position spaced from the first position. It is not clear how this is accomplished. Although the specification details that the first position, the

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second glass is bonded to the first glass. However, it is not how a second position is obtained by screwing the screw member if the safety member (42) is welded thereto. ^{OK} Further, the specification discloses that the safety element is in the form of a screw, but the figures appear to show the safety element as a plate member.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

^{OK} 7. Claim 3 recites the limitation "the first position" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1-7,11-13,15,16-19 stand rejected under 35 U.S.C. 102(b) as being anticipated by EP 0595062. In reference to claims 1,17 and 20, EP 0595062 discloses a fixing and fire-resistant glazing assembly consisting of a fixing member (16,18) including a support (18) and a retaining/safety element (16), a main pane (2) and an additional element (1); wherein the additional pane (1) configured to permit positioning of the main pane (2). The main pane (2) is fixed to the additional element (1) such that the support (18) does not contact the additional element (1). In regards to claim 2, the additional pane (1) further includes a bore (5) for receipt

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of a fastener (17) that extends therethrough and allows for positive fixed engagement. In reference to claim 6, the safety element includes a ring (10). In reference to claims 3 and 22, the additional element (1) is bonded (3) to the main pane (2). Regarding claim 4, the retaining/safety element (16) is fixed indirectly to the main pane (2) by support bolts (17). In reference to claim 5, the additional element (1) has the bore (5) which receives a support (11,17) for the retaining element (16). Regarding claim 6, the opening (5) is a through bore, and the support (11) is a ring or disk segment having an outside diameter (at a top and bottom portion thereof) larger than the bore (5), see figure 3. In reference to claim 12, the main pane (2) is laminated. Regarding claim 15, the glass of EP 0595062 is for use against an additional support member which inherently are large-scale areas. In reference to claim 16, there is an insulating gap (G) between panels that is filled with seal (19). Regarding claims 18 and 19, the retaining/safety element (16) is coupled to the support (18) by fastener portion (SP), see the marked attachment of the previous action.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 8,9,11,13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0595062 in view of EP 0528781. EP 0595062 discloses the basic claimed fixing and fire-resistant glazing assembly except for explicitly detailing that the glazing is prestressed and except for the additional and main panes being containing at least two sheets. EP 0528781 teaches that it is known in the art to form a glazing assembly out of a prestressed material;

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wherein at least one of the panes (4) consists of at least two sheets (6), see the abstract thereof .

Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of EP 0595062 with the prestressed double glazing of EP 0528781 in order to improve the protective fire-resistance effect of the assembly. A double pane assembly provides additional material to resist fire directed thereon while also providing the overall assembly with additional strength and rigidity.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0595062 in view of US Patent #5,588,421 to BUSCH et al. EP 0595062 discloses the basic claimed fixing and fire-resistant glazing assembly except for explicitly detailing that the glazing includes an additional heat-reflective coating. BUSCH et al. teaches that it is known in the art to provide a fire-resistant glazing assembly (1) with an additional heat-reflective coating (12). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of EP 0595062 with the additional heat-reflective coating of BUSCH et al. in order to reduce the temperature of the glass from being subject to heat applied thereto. Glass absorbs a lot of heat. An additional heat-reflector will reduce the consumption of heat through the glass and will lessen the chance of a person being burned or injured as a result of glass that is too hot.

Allowable Subject Matter

13. Claims 7 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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14. Claims 21-30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

15. Claims 20,31 and 32 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Response to Arguments

16. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



August 13, 2003